

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION**

PITMAN AND PENNISULA PLASTIC
SURGERY CENTER, LTD.

Plaintiffs,

VS.

XCENTRIC VENTURES, LLC et al.,

Defendants.

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Case No.: _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, the above captioned action, which was recently filed in the Circuit Court of Virginia for Williamsburg/James City County (the “State Court”), is hereby removed by the Defendant, Xcentric Ventures, LLC (hereafter “Defendant”), to the United States District Court for the Eastern District of Virginia, Newport News Division, by the filing of this Notice of Removal. As grounds for removal, the Defendant states as follows:

1. Plaintiff John M. Pitman, III commenced the following action in the Circuit Court for Williamsburg/James City County, Virginia: Pitman et al. v. Xcentric Ventures et al., Case No. CL 16001780-00 (the “State Court Action”).
2. The Complaint was filed in the State Court Action on or about October 5, 2016.
3. Xcentric Ventures was served with the Summons and Complaint on November 17, 2016.
4. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed because it has been filed within 30 days of receipt of the Summons and Complaint.

5. Pursuant to 28 U.S.C. § 1446(a), copies of all process and pleading served upon the Defendant in the State Court Action are attached hereto as Exhibit A.

6. Pursuant to 28 U.S.C. § 1446(d), a Notice to Plaintiffs of the Filing of Notice of Removal and a copy of this Notice of Removal is being served upon Plaintiffs and filed with the Clerk of the Circuit Court for Williamsburg/James City County. A copy of the Notice to Plaintiffs of the filing of Notice of Removal to be filed in the Circuit Court for Williamsburg/James City County is attached hereto as Exhibit B.

7. This Court is in the district and division within which the action is pending. 28 U.S.C. § 1441(a). The State Court is located in Williamsburg, Virginia.

8. Defendant removes this case based upon diversity jurisdiction.

JURISDICTION EXISTS UNDER 28 U.S.C. § 1332

9. This Court has original diversity jurisdiction pursuant to 28 U.S.C. § 1332, because there is complete diversity between all properly joined parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

10. **Plaintiff Is a Citizen of the State of Virginia.** For purposes of diversity jurisdiction, a person is a citizen of the state in which he or she is domiciled. *Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826, 828 (1989). As evidenced by Plaintiff's Complaint, Plaintiff is a resident of the State of Virginia. See Ex. A, Compl. ¶6. Plaintiff did not allege that he has any intention of moving from the State of Virginia. See Ex. A, Compl.

11. **No Defendant Is a Citizen of the State of Virginia.** As alleged in the Complaint, Defendants Tracey Richter and Anna Richter reside in Iowa (Ex. A ¶8-9); Defendant Xcentric Ventures, LLC is an Arizona limited liability company located in Phoenix, Arizona (Id.

at ¶11); Defendant Darren Meade resides in California; and Defendant Edward Magedson resides in Arizona.

12. The Complaint's allegation that Defendant Bert Pitman is a resident of Virginia is incorrect. As set forth in the Declaration of Edward Magedson, Exhibit C hereto, Defendant Pitman has an Iowa driver's license and a full time job in Iowa; was served with the Complaint in this case at his grandmother's home in Iowa, where he is currently residing; is registered to vote in Iowa; and voted in Iowa in the November 2016 Election. [Magedson Declaration, Ex. C at ¶4-6).

13. Thus, complete diversity of citizenship exists between all Plaintiffs and all Defendants.

14. Plaintiffs seek recovery of compensatory damages against the Defendants, jointly and severally, in the amount of \$15,000,000.00 on Counts I and II; seek \$15,000,000 plus treble damages to Plaintiff PPS pursuant to Count III; request that they be awarded punitive damages in the amount of \$350,000.00; and request that based on all counts, they be awarded a total of \$60,350,000.00. [Complaint, Ex. A, at Page 26].

15. Pursuant to 28 U.S.C. § 1332(a) the amount in controversy exceeds the sum or value of \$75,000.00 exclusive of interest and costs.

16. Notwithstanding that the jurisdictional requirements have been met, nothing in this Notice of Removal should be construed as an admission that Plaintiffs are entitled to any judgment in their favor.

REMOVAL IS APPROPRIATE

17. Based on the foregoing, removal of the State Court Action to this Court is appropriate pursuant to 28 U.S.C § 1441, *et seq.*

WHEREFORE, Defendant Xcentric Ventures, LLC removes the State Court Action from the Circuit Court of Virginia for Williamsburg/James City County at Williamsburg, to this Court, and respectfully request that this Court take jurisdiction of this civil action to the exclusion of any further proceedings in the State Court.

Respectfully Submitted,

DICKINSON WRIGHT PLLC

/s/ H. Jonathan Redway
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CERTIFICATE OF SERVICE

I, hereby certify that a true and correct copy of the foregoing Notice of Removal was served via pre-paid First Class U.S. Mail on this 7th day of December, 2016 on:

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